

**AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY
MINUTES OF A PUBLIC HEARING**

DATE..... June 23, 2004
TIME..... 7:00 P.M.
PLACE..... CO. OFFICE BLDG.
20 N. 3RD STREET
LAFAYETTE IN 47901

MEMBERS PRESENT

Mark Hermodson
Jean Hall
Gary Schroeder
Edward Butz
Steve Clevenger
Ralph Webb
Edward Weast

MEMBERS ABSENT

STAFF PRESENT

Sallie Fahey
Krista Trout
Heather Prough
Jay Seeger, Atty
Michelle D'Andrea

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 23rd day of June 2004, at 7:00 P.M., pursuant to notice given and agenda posted as provided by law.

Mark Hermodson called the meeting to order.

I. APPROVAL OF MINUTES

Jean Hall moved to approve the minutes of May 26, 2004 public hearing. Steve Clevenger seconded the motion.

Steve Clevenger pointed out a mistake on page two and asked that it be corrected.

The motion carried, with correction by voice vote.

II. NEW BUSINESS

Sallie Fahey informed the Board that all the issues in **BZA-1666 JAMES D. SCHARER** case have been resolved, the petitioner has withdrawn it and no further action was needed. She stated that **BZA – 1669-SHAWN & STEPHANIE FOSTER** needs to be continued to the August 25, 2004 meeting because part of the deck is in the flood plain and a new site plan is needed.

III. PUBLIC HEARING

Steve Clevenger moved that there be incorporated into the public hearing portion of each application to be heard this evening and to become part of the evidence at such hearing, the Unified Zoning Ordinance, the Unified Subdivision Ordinance, the Comprehensive Plan, the By-laws of the Area Board of Zoning Appeals, the application and all documents filed therewith, the staff report and recommendation on the applications to be heard this evening and responses from the checkpoint agencies. Gary Schroeder seconded and the motion carried by voice vote.

Mark Hermodson waived the reading the meeting procedures.

1. **BZA-1660—RAYMOND E. BRADLEY:** Petitioner is appealing the decision of an Administrative Officer of Tippecanoe County (County Zoning Enforcement Officer) that a junkyard is being maintained on property owned by petitioner located at 6847 S 775 E, Sheffield 28(SE)22-3. THIS CASE WAS CONTINUED TO THE JUNE MEETING AFTER AN AGREEMENT WAS REACHED BY BOTH PARTIES.

Steve Clevenger moved to hear and vote on the above-described request. Gary Schroeder seconded the motion.

Jay Seeger recapped the history of this appeal. He mentioned that findings of fact were received from both parties and had been included in the packet for tonight's meeting. He stated that at this time the

Board should hold a discussion on this matter and then make a decision. He said that any Board member that was not present at the March 2004 meeting, and did not hear the initial testimony in this case, should not participate in the discussion and should not vote on this case. He explained that the Board should consider which findings of fact they wish to adopt.

Jean Hall asked about the definition of "may" as it is used in several places in the findings of fact submitted by David Luhman. He pointed out that the definition does not match item 20 or item 24.

Jay Seeger stated that is referring to the definition of a junkyard as found in section 1-10-2 of the UZO. He said that the word "may" in the junkyard definition would be synonymous with the word "could", as opposed to using it in the permissive sense.

Jean Hall asked if the findings were adopted, whether item E in section 12 would need to be restated to "could" or "can't".

Mark Hermodson asked if that was revelant to the issue.

Jay Seeger stated that item E should not be changed because item 12 is simply a reiteration of the dictionary definition. He said that if that was a concern, an additional paragraph could be added to identify or restate that the word "may" is synonymous with "could".

Jean Hall said that in item 11 it states that as a matter of law, the words must be given their common or ordinary meaning. He stated that the dictionary definition does not clearly state that "may" is synonymous with "could".

Mark Hermodson asked if that was revelant to deciding whether this was a junkyard.

Jean Hall explained that he was trying to relate the definition to item 24, which is what determines a junkyard.

Jay Seeger pointed out that item 11 says to apply the common or ordinary meanings, and therefore, it is the Board's decision as to what the common or ordinary meanings are.

Jean Hall asked for confirmation that he was not restricted to the listed dictionary definition.

Jay Seeger replied affirmatively. He stated that item 12 was not a conclusive fact in this case.

Jean Hall commented that in the findings of fact submitted by the petitioner's legal counsel, it states that he is involved in an expensive, non-profit hobby, and he did not understand where the expensive part applied. He mentioned that hobby property is usually well cared for, and that was a concern he had.

Steve Clevenger commented that if the vehicles were in a barn, a garage, were licensed and well cared for, and then it could be considered a hobby. He stated that his opinion was that if this were a hobby, they should be indoors or in an industrial zone.

Jean Hall moved to that the Board accept the findings and decisions proposed by David Luhman, as the findings of the Board. Steve Clevenger seconded the motion.

The Board voted by ballot 6 yes to 1 no to accept the findings and decisions proposed by David Luhman, as the findings of the Board.

Yes votes

Mark Hermodson	Jean Hall
Edward Weast	Steve Clevenger
Ralph Webb	Gary Schroeder

No votes

Edward Butz

Mark Hermodson stated that the decision of the Administrative Officer has been upheld.

Jean Hall moved to continue **BZA-1669-SHAWN & STEPHANIE FOSTER** to the August 25, 2004 meeting. Steve Clevenger seconded and the motion carried by voice vote.

2. **BZA-1668—DALE W. & KAREN A. PERMAN:** Petitioners are seeking a variance to allow a rear setback of 18.5' instead of the required 25' to construct an addition onto an existing home on property located at 3526 Woodwind Place (Lot 71 in Capilano Estates Subdivision), Wabash 3(NW)23-5. (UZO 4-2-2) THIS CASE WAS CONTINUED TO THE JUNE MEETING BECAUSE OF LACK OF SIGN POSTING.

Jean Hall moved to hear and vote on the above-described request. Steve Clevenger seconded the motion.

Krista Trout presented slides of the zoning map, 2 aerials, site plan and 3 photos. She read the staff report with recommendation of denial.

Joseph T. Bumbleburg, PO Box 1535, Lafayette, IN stated that this house was 26 years old. He explained that the intent of the sunroom was to provide for exercise equipment. He pointed out that the front of the home was not appropriate for this type of addition, especially because of the septic field. He mentioned that all around the house are mature trees and bushes, which give a lot of privacy. He stated that moving the garage was not an option because it would intrude into the trees and would not have any privacy. He said that on the west side of the house is the fireplace and formal dining room and not the place for a sunroom. He stated that the petitioner has spoken to most of the neighbors and there were no objections. He reiterated that the backyard is very private. He stated that this would enhance the house. He said that there would be no harm to the neighbors.

Ralph Webb asked if there were any objections from the neighbors in lot 74.

Joseph T. Bumbleburg stated that neighbor had received the letter to interested parties and the petitioner also spoke with them and there were no objections.

The Board voted by ballot to 7 to grant – 0 to deny thus approving **BZA-1668—DALE W. & KAREN A. PERMAN.**

Mark Hermodson stated that unless any member has an objection the chair will order the findings of each member casting a vote for the majority decision of the Board to be the collective findings of the Board in support of the decision of the Board. Hearing none, it is so ordered.

IV. ADMINISTRATIVE MATTERS

Sallie Fahey informed the Board that a new recording secretary had been hired and would start on July 1. She explained that because of the vacations, the July packet would go out a day late. She said that she would be on vacation during the July BZA meeting.

Jay Seeger stated that he met with the attorney for Wildcat Wildlife Center and July 5 will be the effective date of their move to Carroll County. He explained that they would not be accepting any new animals at the Tippecanoe County facility after that date. He said that some of the educational animals would still be at the Tippecanoe County facility until the construction in Carroll County is completed. He stated that as of July 5 their appeal will be dismissed and Al Levy would conduct an inspection as of July 6th.

Ralph Webb asked if it was necessary for the Board to establish a timeline.

Jay Seeger replied negatively. He explained that the Board has already taken its action and the Wildcat Wildlife Center's appeal is pending. He said that once the appeal is dismissed, Al would be allowed to conduct an inspection and pursue enforcement if they are not in compliance.

Ralph Webb asked if it was necessary to accept the timeline.

Jay Seeger replied negatively. He explained that there is no further action required by the Board.

V. ADJOURNMENT

Jean Hall moved for adjournment. Steve Clevenger seconded and the motion carried by voice vote.

The meeting adjourned at 7:45 PM

Respectfully submitted,



Michelle D'Andrea
Recording Secretary

Reviewed by,



Sallie Dell Fahey
Executive Director